

Serial No.: 10/671,322

Attorney's Docket No.:10559/855001/P17303

REMARKS

Claims 1-4 and 14 were pending prior to amendment. Please add new claim 33. Claim 33 is supported in the specification; for example in FIG. 1.

Claims 1-4 and 14 were rejected under 35 U.S.C. 102(e) as allegedly being unpatentable over U.S. Published Patent Application No. 2004/0023514 to Moriya et al. ("Moriya"). In view of the amendments and remarks herein, the rejections are respectfully traversed. Reconsideration and allowance are respectfully requested.

Claims 1-14

A declaration by Valery M. Dubin is attached as Exhibit 1. This declaration establishes the inventors' possession of the claimed subject matter prior to Morita's July 29, 2003 filing date. The declaration by Valery M. Dubin and the attached Exhibit 1 provide a prima facie showing that the subject matter in claims 1-4 and 14 was conceived prior to July 29, 2003, the effective priority date of Moriya.

After conception, and prior to July 29, 2003, Applicants worked diligently with patent attorneys who were members of Fish & Richardson P.C. to prepare a patent application that described the conceived invention. After this diligent preparation work,

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the above-referenced application was filed on September 24, 2003.

Based on the above, we respectfully submit that Moriya is no longer an effective reference under 35 U.S.C. 102(e).

New claim 33

New claim 33 is patentable for at least the additional reason that Moriya neither teaches nor suggests "wherein the carbon nanotube is not substantially overlapping the first conductive alignment region and the second conductive alignment region," as recited in claim 33.

In contrast, as noted in the previous response, the nanotubes of Moriya are in one of two configurations. Some of the nanotubes substantially overlap either the source region, the drain region, or both.

Since Moriya neither teaches nor suggests this feature of claim 33, claim 33 is patentable over Moriya.

CONCLUSION

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue, or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all

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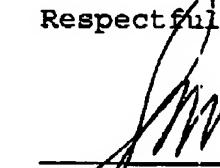
pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Claims 1-4, 14, and 34 are in condition for allowance, and a notice to that effect is respectfully solicited. If the Examiner has any questions regarding this response, the Examiner is invited to telephone the undersigned at (858) 678-4311.

Please apply a one-month extension of time fee and any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 7/1/05



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